IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

FAO.No. 12 of 2003()

AGAINST THE ORDER DATED 15/03/2003 IN IA. 3153 /2002 IN AS.161/2002 of PRL.SUB COURT,KOTTAYAM
(OS.91/1999 of PRL.M.C., KOTTAYAM)

.....

PLAINTIFF-APPELLANT/PETITIONER/APPELLANT

M/S.SOUTH INDIAN TIMBER INDUSTRIES,
KUDAMALOOR.P.O., REPRESENTED BY THE MANAGING
PARTNER, C.BHASKARAN NAIR, HILL VIEW,
MARIYATHURUTHU P.O., PERUMBAIKAD VILLAGE.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS: RESPONDENTS-CR.PETITIONERS/RESPONDENTS

---

1. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY, VAIDYUTHI BHAVAN,
PATTOM P.O., TRIVANDRUM.

2. THE EXECUTIVE ENGINEER, K.S.E.B.,
PALLOM, KOTTAYAM.

3. ASST.EXECUTIVE ENGINEER, ELECTRICAL
MAJOR SECTION, GANDHI NAGAR, KOTTAYAM.

BY ADV. SRI.T.G.RAJENDRAN SC FOR K.S.E.B.

THIS FIRST APPEAL FROM ORDERS HAVING BEEN FINALLY HEARD ON 08/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN, J

F.A.O.No.12 OF 2003

Dated this the 8th day of November, 2006

JUDGMENT

This appeal is by the plaintiff challenging the interlocutory order passed in a first appeal. He had sued the Electricity Board and its Officers on issues referable to chargeability of interest, as also, the tariff applicable. The trial court refused the decree as prayed for. Pending first appeal, the appellant applied for an interlocutory order in the nature of mandatory injunction to direct the K.S.E.Board officials to restore supply of electrical energy. That application was dismissed by the impugned order. Though this appeal was admitted, no interlocutory order has been granted.

2. After having heard the parties at length on the merits of the matter, it is noticed that the question of interest chargeable by the Board is an issue on which the Board has to take decision. In so far as the issue relates to the tariff that is applicable, if there is any dispute between the parties in that regard, that has to be

resolved by the Tariff Regulatory Commission. The said propositions are beyond any dispute going by the Bench decision of this Court in W.A.1231/03.

3. Under the aforesaid circumstances, to do justice to the parties, it is apparent that O.S.91/1999 from which this appeal arises does not have to continue on the files of the Principal Munsiff's Court, Kottayam. Similar is the case with the first appeal A.S.161/02 of the Court of Principal Sub Judge, Kottayam.

4. In the result, in exercise of power under Article 227 of the Constitution of India, A.S.No.161/02 on the file of the Court of the Principal Sub Judge, Kottayam is withdrawn to this Court and the said appeal and the suit from which it arose, namely, O.S.91/99 of the Court of the Principal Munsiff, Kottayam are hereby dismissed as withdrawn with liberty and without prejudice to the right of the plaintiff, appellant herein, to move the K.S.E.Board or the Tariff Regulatory Commission for appropriate relief in lines of what is stated above.

The office will communicate copy of this order to the Principal Sub Court, Kottayam and Principal Munsiff's Court, Kottayam.

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

==========

THOTTATHIL B. RADHAKRISHNAN, J

F.A.O.NO.12 OF 2003

JUDGMENT

8TH NOVEMBER, 2006.

==========